



## CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Appeal of Encroachment Permit Denial for Flagpole Installation at  
23 West Elm Street

**MEETING DATE:** May 3, 1995

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** That the City Council consider the appeal of the Veterans of Foreign Wars (VFW) of the denial of a permanent encroachment permit to install a flagpole in the public right-of-way in front of their facility located at 23 West Elm Street and take appropriate action.

**BACKGROUND INFORMATION:** On April 3, 1995, a request was received from Mr. Silas Henninger, Senior Vice Commander of VFW Lodi Post 1968, to allow the installation of a 2-inch diameter, 21-foot tall steel flagpole in a tree well in the right-of-way just west of the entrance to their facility on Elm Street. The request indicated that one tree well was empty and the other contained a dead tree. A copy of the written request is attached. Conversations with Mr. Henninger revealed that the flag would be flown 24 hours a day and be lighted from a light source to be attached to the front of the building.

The request for the encroachment permit was denied. Staff feels strongly that the tree wells should be replanted and used as intended. There is also concern for the liability assumed by allowing a flagpole in the right-of-way. Mr. Henninger indicated that one tree well was empty when they moved into the building and that they watered the remaining tree but it died. The Street Superintendent indicates that the trees in these tree wells have been replanted once. In his opinion, the trees would have remained viable if properly maintained, but were irreparably damaged by lack of water last summer when the building was vacant. As can be seen in Photo #1 attached, the trees in the tree wells adjacent to the VFW facility are doing well.

If the applicants desire a flagpole, we strongly recommend that the pole be placed on the top of the building. A rooftop installation would allow the flag to be displayed prominently, eliminate the need to encroach in the public right-of-way, eliminate City liability for allowing an encroachment, and provide a means of securing the flag against tampering or theft. The VFW building is a two-story structure and would lend itself nicely to this type of installation (see Photo #2 attached). This approach was very successfully used by the American Legion Post located at 320 North Washington Street (see Photo #3 attached). If the rooftop installation is adopted, a building permit will need to be obtained from the Building Division prior to construction.

APPROVED: \_\_\_\_\_

THOMAS A. PETERSON  
City Manager



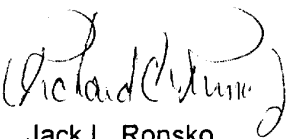
recycled paper

In a related matter, a field review of the site revealed an existing flagpole bracket mounted on the side of the building. If the Council upholds the denial of the encroachment permit and the VFW wants the flagpole to remain as is, it needs to be mounted higher on the side of the building. The flag extends out over the sidewalk area and clearance between the sidewalk and the flag is only about 5 feet. The flag needs to be raised to provide 8 feet of clearance in conformance with the requirements of Chapter 45 of the Uniform Building Code.

We strongly encourage the Council to uphold the denial of the encroachment permit. However, if Council determines that the appeal should be granted and an encroachment permit issued, staff has the following recommendations:

- The flagpole should be a manufactured flagpole. A building permit will be required for the installation of the flagpole in addition to the encroachment permit. Plans and the manufacturer's installation specifications will need to be submitted to the Building Division and the Public Works Department for review.
- The installation can be done by members of the VFW if they have a member with the appropriate state license for concrete work (Class B or C-8). City policy requires a licensed concrete contractor for any concrete work done in the public right-of-way.
- Provide some method of securing the flag against theft.

FUNDING: Not applicable.

  
By Jack L. Ronsko  
Public Works Director

Prepared by Sharon A. Welch, Associate Civil Engineer

JLR/SAW/lm

Attachments

cc: City Attorney  
Street Superintendent  
Associate Civil Engineer  
Mr. Silas Henninger

VETERANS OF FOREIGN WARS  
LODI POST 1968  
23 WEST ELM STREET  
LODI, CA 95240

APRIL 3, 1995

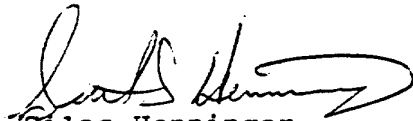
Jack Ronsko  
City Of Lodi Director Of Public Works  
Public Works Department  
221 West Pine  
Lodi, Ca 95240

Dear Sir:

The V.F.W. Lodi Post 1968 is requesting permission to install a flag pole in front of our building at 23 West Elm St. This will be a steel pole two inches in diameter and twenty one feet tall. There are two trees in front of the building. One of these trees is dead. We wish to remove the dead tree and install the flag pole. The pole would be put in place by members of the Post. It will be installed according to City Ordinance. The flag to be flown will be the U.S. Flag three feet by five feet.

I remain,

Yours truly,



Silas Henninger  
Senior Vice Commander  
V.F.W. Lodi Post 1968  
23 West Elm Street  
Lodi, CA 95240.

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tree

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← DEAD TREE

SIDEWALK

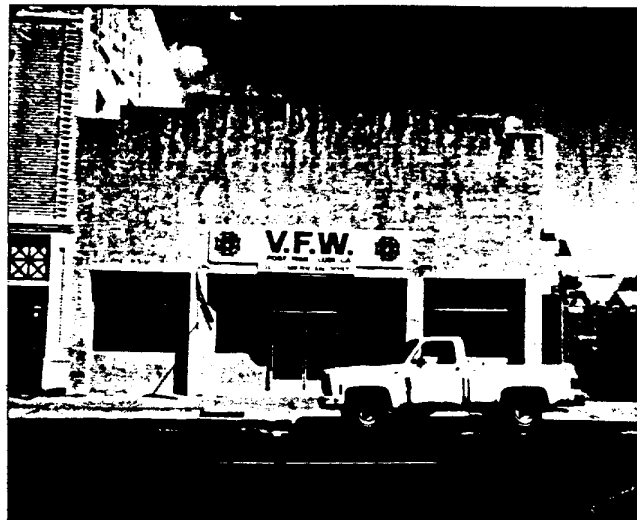
23 W ELM

PHOTO #1



VFW  
23 W. Elm Street

PHOTO #2



VFW  
23 W. Elm Street

PHOTO #3



American Legion  
320 N. Washington Street

May 3, 1995

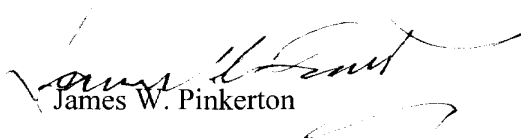
Dear Mayor Mann and Members of the City Council:

I apologize for not being here in person, however the press of business requires I be out of town this evening.

I do hope that you will give favorable consideration to the request of the Veterans of Foreign Wars to place a flag pole in front of their building. They have converted an eyesore into a facility that can be a source of pride for all of us. For those of us that have been in the military the flag is displayed at the entrance to the establishment in a place of prominence. If you look at most schools and at the City Hall the flag is not flown from the roof-top, but has been accorded a place of prominence. A flagpole is not going to create any greater liability than a tree--as a matter of fact the flag pole will be less of a hazard to passer-bys than the branches of a tree.

Again I ask that you set aside Mr. Ronsko's recommendation and approve the encroachment permit requested by the Veterans of Foreign Wars.

Sincerely,



James W. Pinkerton

CITY COUNCIL

STEPHEN J. MANN, Mayor  
DAVID P. WARNER  
Mayor Pro Tempore  
RAY G. DAVENPORT  
PHILLIP A. PENNINO  
JACK A. SIEGLOCK

# CITY OF LODI

CITY HALL, 221 WEST PINE STREET  
P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 333-6706  
FAX (209) 333-6842

THOMAS A. PETERSON  
City Manager  
JENNIFER M. PERRIN  
City Clerk  
BOB McNATT  
City Attorney

April 26, 1995

Mr. Silas Henninger  
Senior Vice Commander  
VFW Lodi Post 1968  
23 West Elm Street  
Lodi, CA 95240

SUBJECT: Appeal of Encroachment Permit Denial for Flagpole Installation at  
23 West Elm Street

Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, May 3, 1995, at 7 p.m. The meeting will be held in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the regular calendar for Council discussion. You are welcome to attend.

If you wish to write to the City Council, please address your letter to City Council, City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council meeting, be sure to fill out a speaker's card (available at the Carnegie Forum immediately prior to the start of the meeting) and give it to the City Clerk. If you have any questions about communicating with the Council, please contact Jennifer Perrin, City Clerk, at (209) 333-6702.

If you have any questions about the item itself, please call Sharon Welch, Associate Civil Engineer, at (209) 333-6706.

  
Jack L. Ronsko  
Public Works Director

JLR/lm

Enclosure

cc: City Clerk